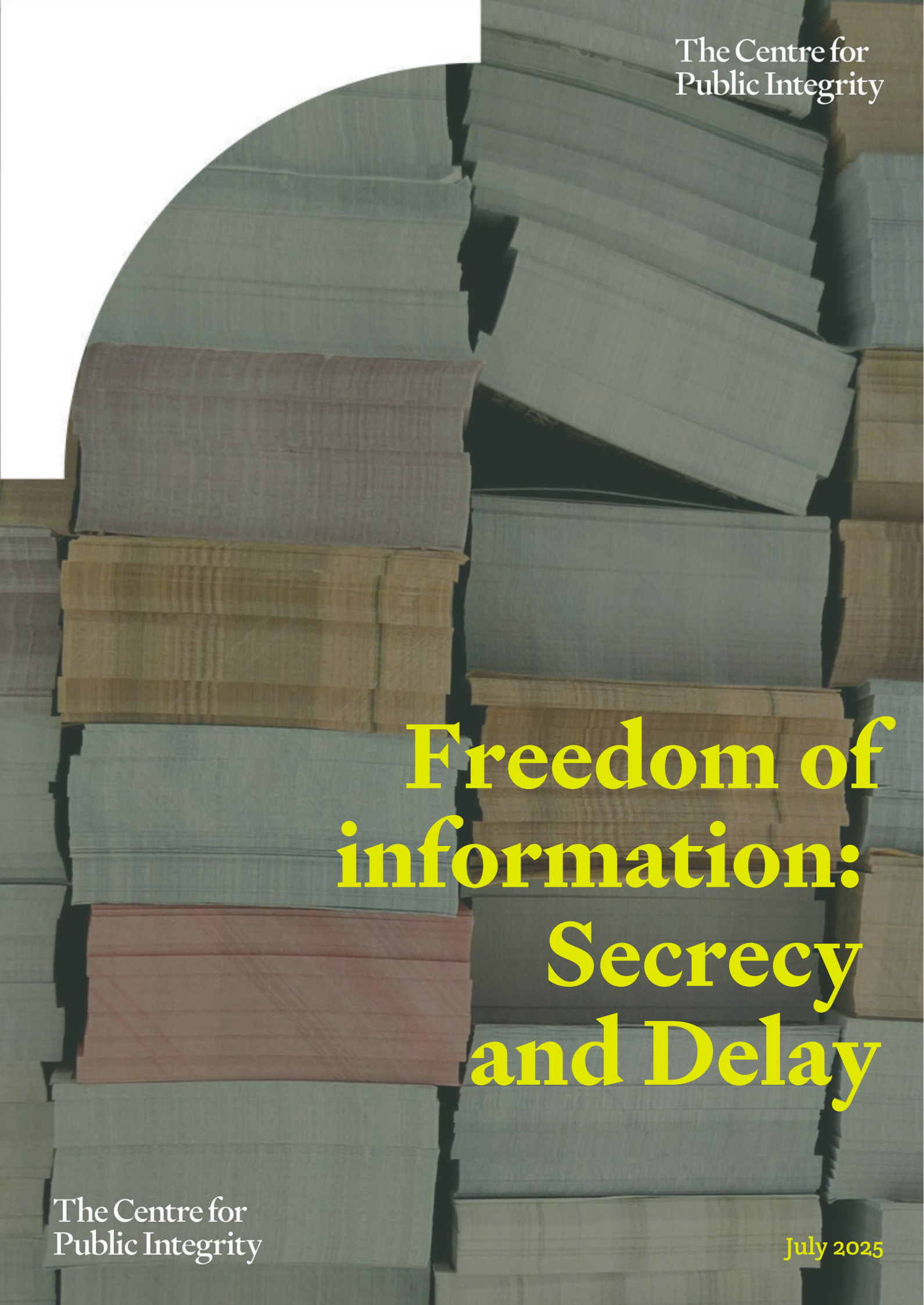

The Centre for Public Integrity

Freedom of information: Secrecy and Delay

The Centre for Public Integrity

July 2025

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Three Years On, Australia's FOI Regime Remains Undermined by Secrecy and Delay

In August 2022, we released our landmark report: Delay and Decay: Australia's Freedom of Information Crisis. Analysing data up until the 2020–21 financial year, we found Australia's freedom of information (**FOI**) regime was falling short—failing both the public and the aspiration enshrined in the *Freedom of Information Act 1982* (Cth) (***FOI Act***).

Despite a stable number of FOI requests, we uncovered a long-term deterioration in processing times, a sluggish and congested review system, an understaffed Office of the Australian Information Commissioner (**OAIC**), and arguably systemic misuse of statutory exemptions by departments and agencies.

Nearly three years later, public debate has intensified, and the Senate has inquired into the FOI regime. Crucially, new data now provides insight into the performance of the Commonwealth's FOI system under the Albanese Government. The results are mixed—and in some areas, deeply troubling.

[1] See especially *Freedom of Information Act 1982* (Cth) s 3 (**FOI Act**).

[2] New data taken from the Office of the Australian Information Commissioner's 2021–22, 2022–23 and 2023–24 annual reports.

[3] See FOI Act s 11(1)(a)–(b).

A primer on the Commonwealth FOI regime

The FOI Act governs the Commonwealth's FOI framework. Part III of the Act grants every Australian a *legally enforceable right* to obtain information,[3] subject to defined statutory exceptions.[4] Requests are initially made directly to the agency or Minister.[5] If refused, the applicant can seek internal review,[6] or proceed directly to an external review by the OAIC.[7]

One of the OAIC's core functions is to perform independent merits review of decisions made under the *FOI Act*.[8] The Administrative Review Tribunal and the Federal Court retain limited and infrequently exercised appellate jurisdiction from OAIC decisions.[9]

[3] See FOI Act s 11(1)(a)–(b).

[4] See FOI Act pt IV.

[5] FOI Act s 15(1).

[6] See FOI Act pt VI.

[7] See FOI Act pt VII, especially s 54F.

[8] *Australian Information Commissioner Act* 2010 (Cth) s 8(h).

[9] FOI Act pt VIIA. See also ss 56, 56A.

The good news: Resourcing, first-instance processing and excess application improvements

Recent data shows measurable progress in several key areas.

First, the OAIC has received a substantial funding boost. Since our 2022 report, which included data for the 2020–21 financial year, real government funding has grown by approximately 97 per cent, and staffing levels have grown by over 65 per cent.

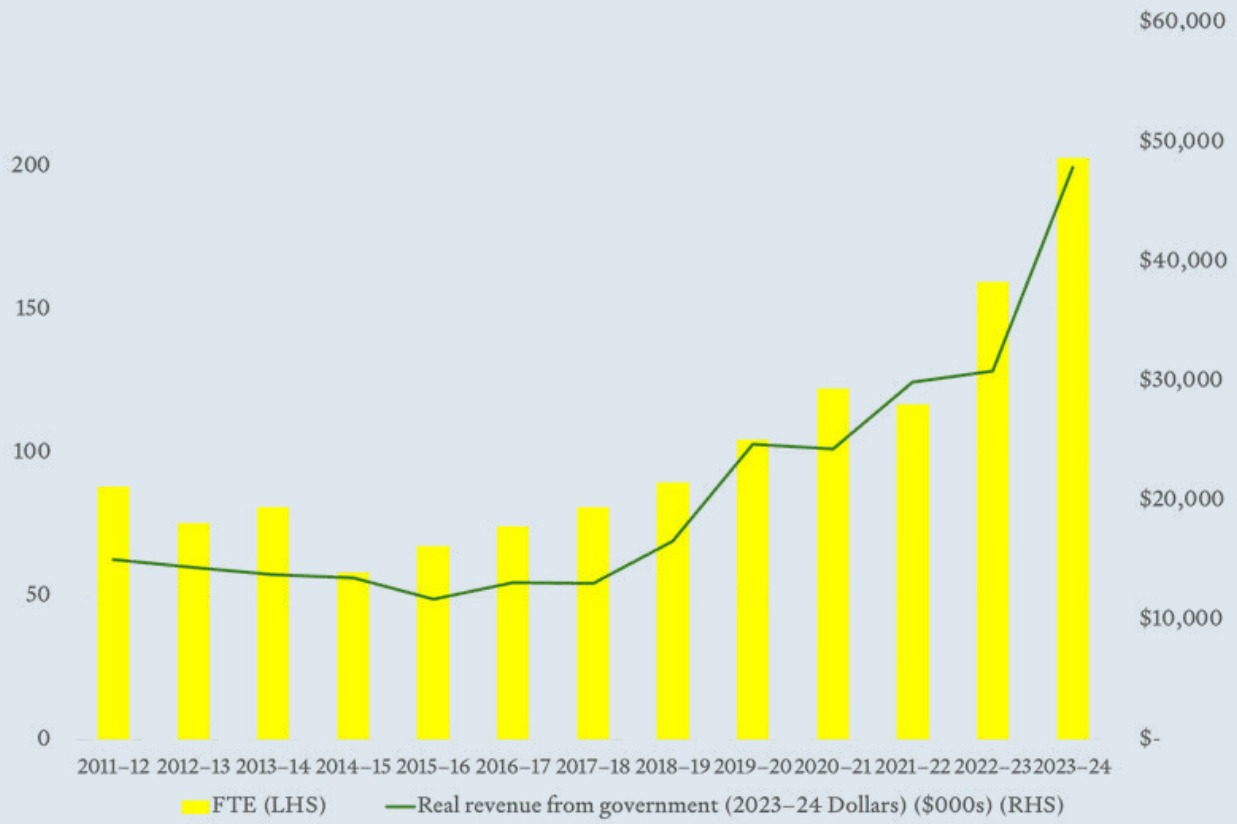

Figure 1: *Real revenue from government to OAIC (2023–24 dollars) (in $000s) (RHS) and full-time equivalent staff (LHS)*

Secondly, the proportion of *first instance* FOI applications breaching the 30-day statutory deadline,[10] or exceeding 90 days, has plateaued and even declined. This marks a significant departure from the structural upward trend under the previous Coalition Government.

[10] See FOI Act s 15(5)(b).

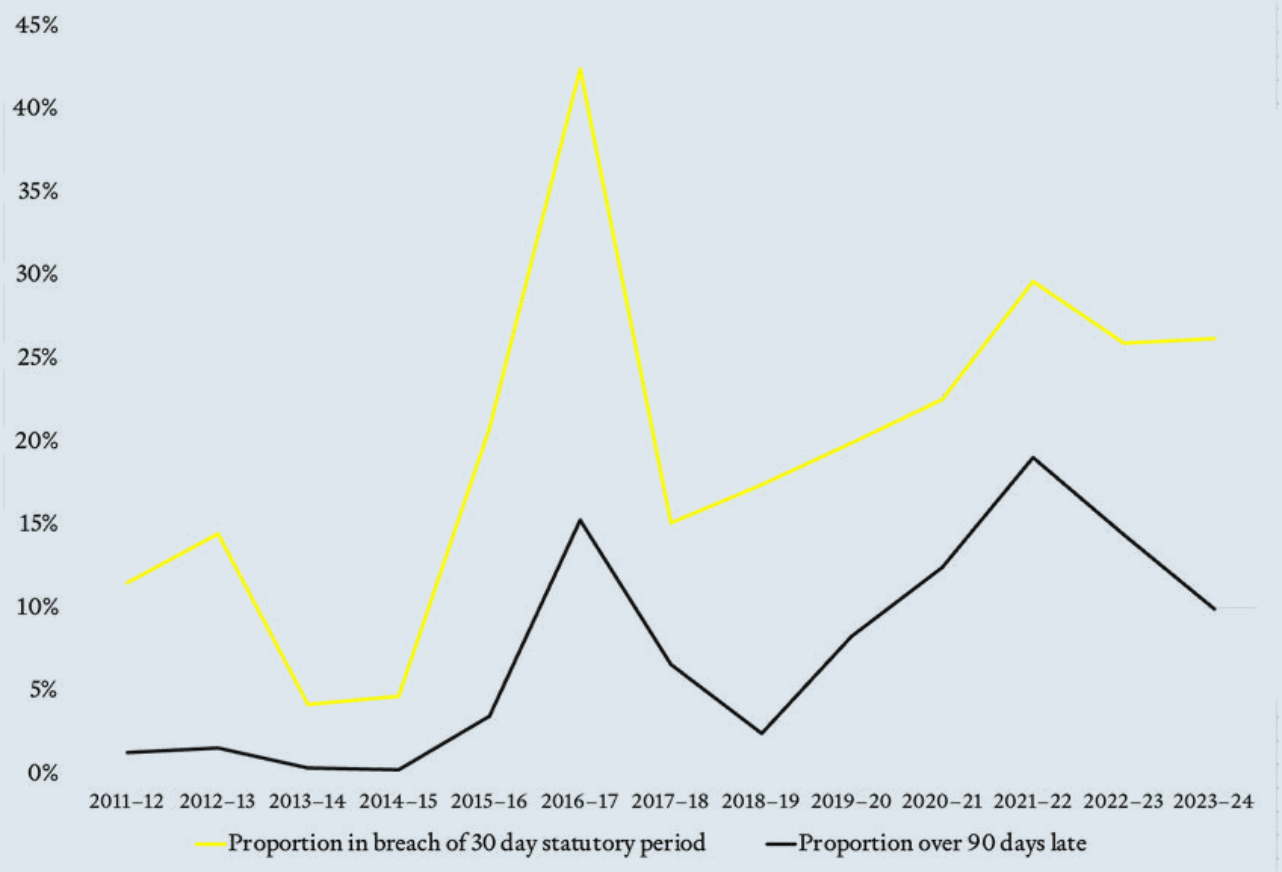

Figure 2: *Proportion of first instance FOI applications in breach of the 30-day statutory period and over 90 days late, 2011–12 to 2023–24*

Thirdly, the OAIC has narrowed the gap between the number of FOI reviews it receives and the number it finalises. After peaking at 603 in 2020–21, the difference fell to just 18 in 2022–23.

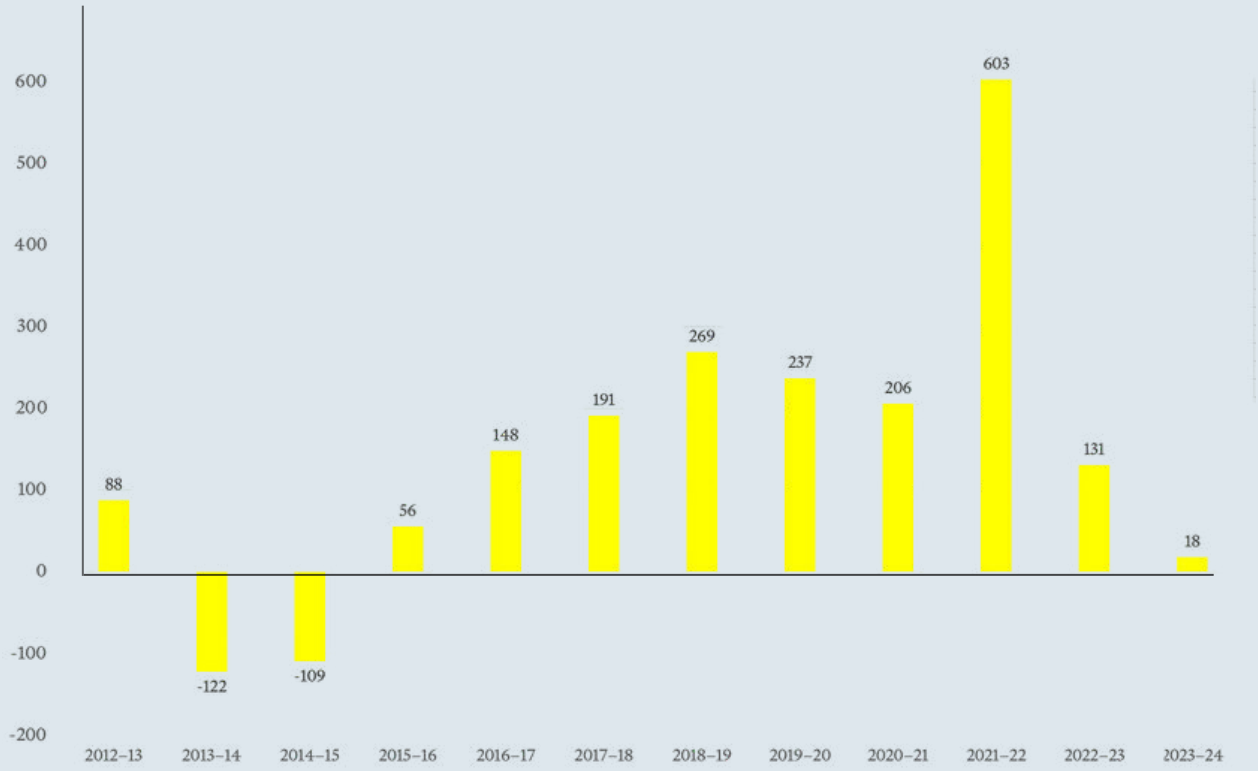

Figure 3: *Gap between OAIC review requests received and finalised, 2012–13 to 2023–24*

Finally, medium-term pressure on the FOI system has eased. Total FOI requests have fallen by 16.0 per cent since their medium-term peak in 2019–20, and OAIC review requests have fallen 16.5 per cent since their medium-term peak in 2020–21. Given the cascading nature of the FOI process, this slight lag between peaks is entirely expected.

The bad news: The culture of secrecy is deepening

Despite these improvements, the rate of secrecy within the FOI regime has sharply worsened under the Albanese Government. One of the most concerning trends we identified in 2022—the declining rate of full disclosures and arguably improper use of exceptions—has only accelerated.

The proportion of requests granted in full has fallen from 59 per cent in 2011–12 to just 25 per cent in 2023–24. Meanwhile, refusals have nearly doubled—from 12 per cent to 23 per cent.

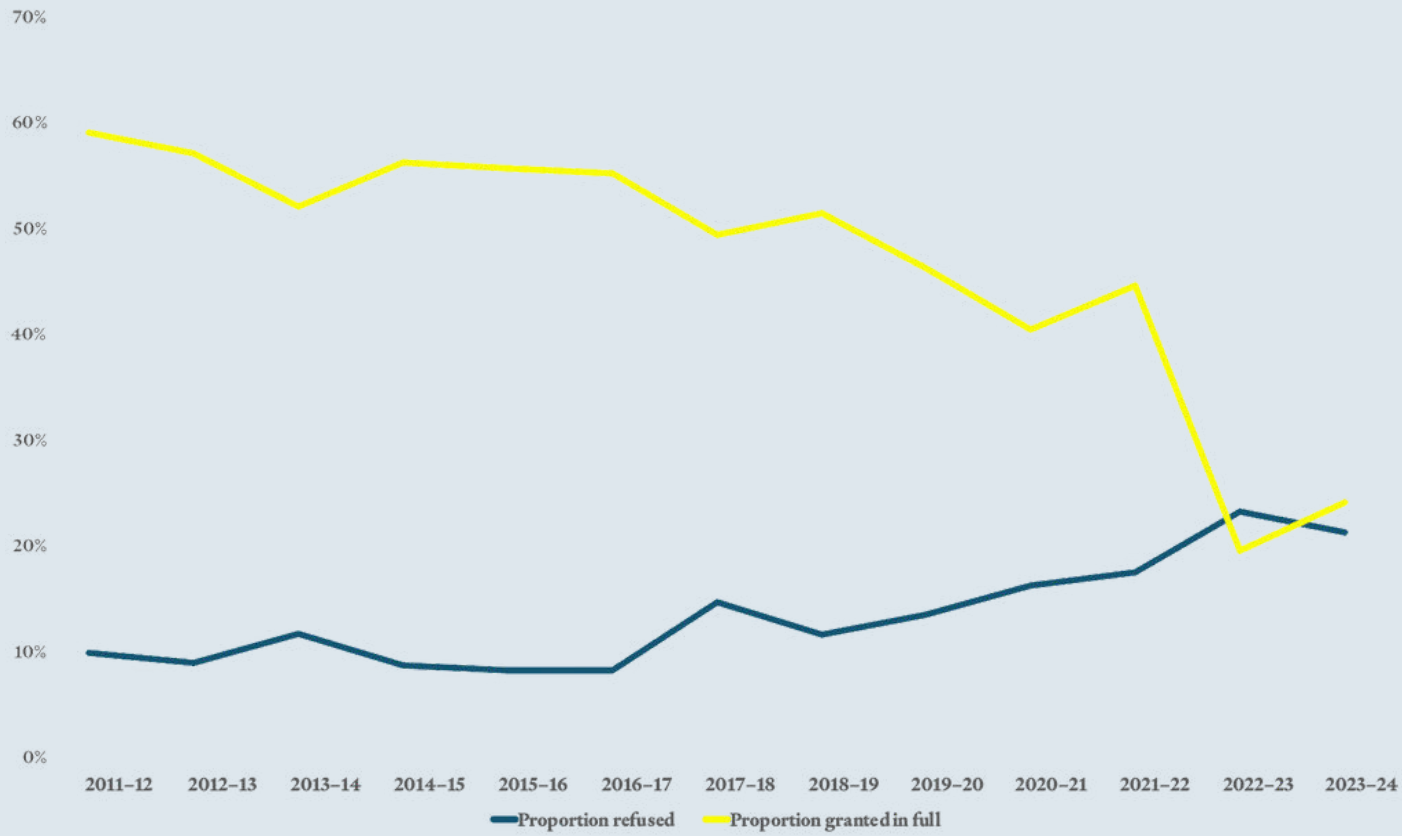

Figure 4: *Proportion of FOI requests refused and granted in full, 2011–12 to 2023–24*

This rapid deterioration under the Albanese government is striking. In 2022–23, for the first time on record, more FOI requests were refused than granted in full—defying the FOI Act's presumption in favour of disclosure.

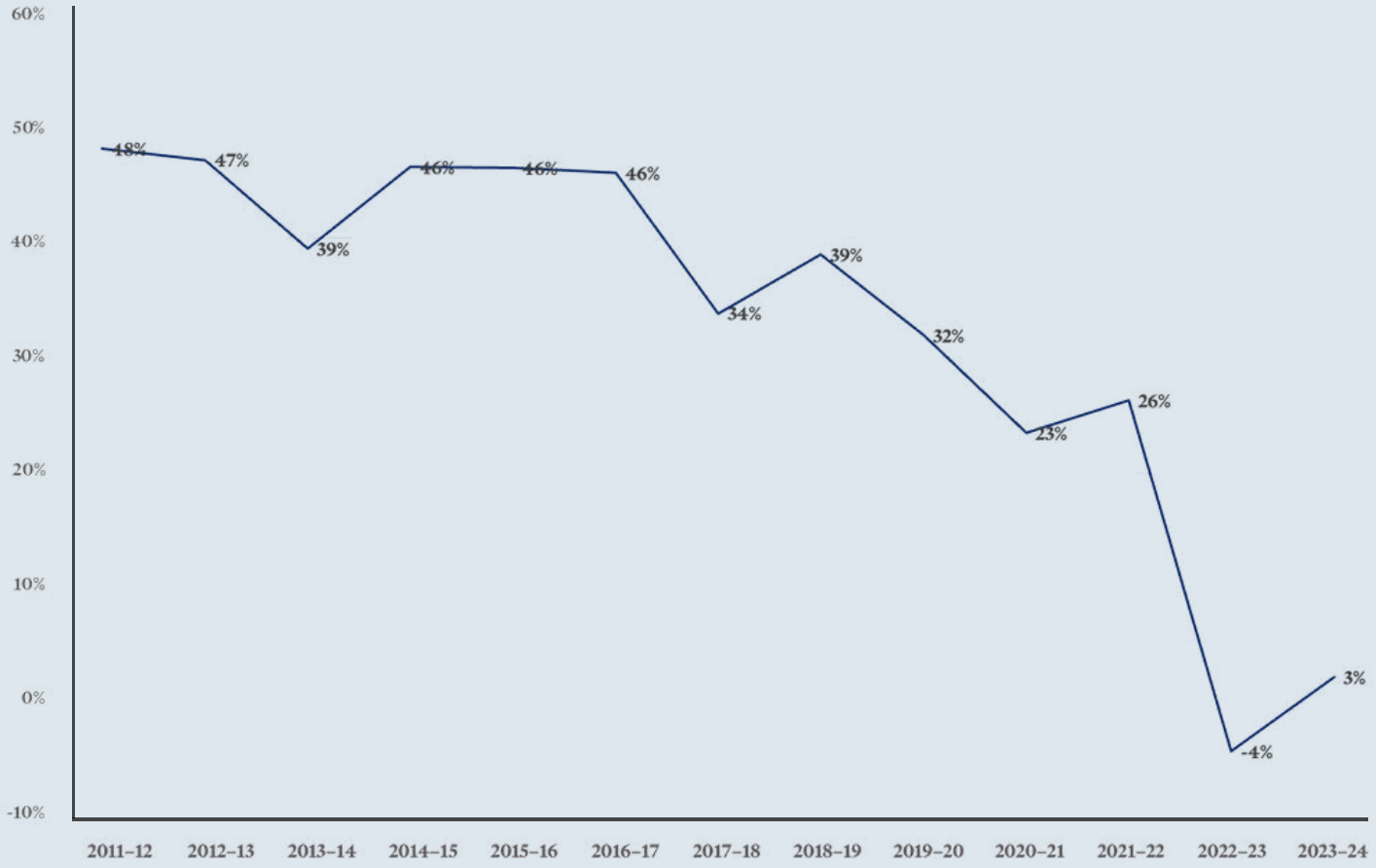

Figure 5: *'Refusal gap', 2011–12 to 2023–24*

The decline is most evident in the 'refusal gap': the difference between the proportion of requests granted in full and those refused. This metric has plunged, particularly over recent years.

Worse still, these refusals often don't withstand scrutiny. In 2023–24, only 54.9 per cent of internal review decisions affirmed the original refusal—meaning almost half of initial decisions were flawed. With only 808 internal review applications filed in 2023–24, this means plenty of otherwise meritorious decisions were likely incorrectly made by first instance decision-makers.

This is particularly damning given that internal reviews are conducted by another officer in the same department, meaning institutional bias, ministerial pressure, and cultures of secrecy can easily carry over. The internal review process remains a questionable safeguard, at best.

More bad news: The OAIC review system remains broken

While demand for first instance FOI requests has stabilised, demand for OAIC review of internal review applications continues to climb. Despite improved resourcing, the time taken to process them has ballooned—reaching a new peak of 15.5 months in 2023–24.

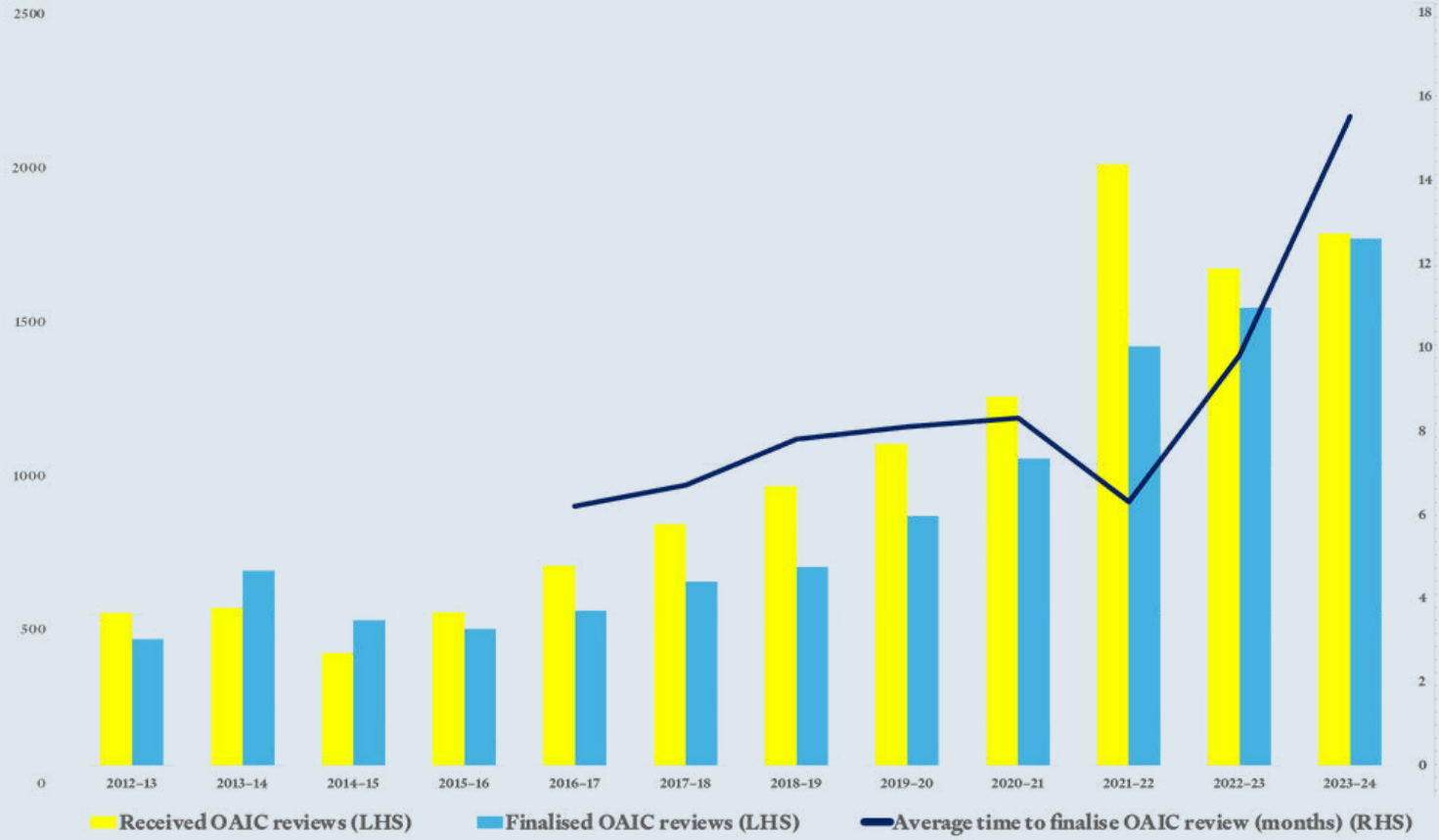

Figure 6: *Received and finalised OAIC reviews (LHS), and average time to finalise OAIC review in months (RHS), 2012–13 to 2023–24*

This delay is disastrous for transparency and democracy. By the time a review is completed, the documents in question have often lost their political and public relevance—blunting the FOI regime's democratic function.

Figure 7: *Proportion of OAIC reviews finalised within 12 months*

Delays are exacerbated by a broken incentives structure. Agencies face no meaningful penalty for refusals or delays. Combined with ministerial pressure and a culture of secrecy, a congested OAIC review scheme results in a regime where obstruction at first instance can effectively gut the right to information.

Conclusion and recommendations

There has been welcome progress since our 2022 report. Resources have increased, processing times have improved, and the gap between OAIC review applications and reviews

But the most recent data also shows that this progress has not been uniform. The Albanese Government has overseen the most dramatic decline in full disclosures since records began. Today, FOI applications are just as likely to be refused as granted in full—undermining the FOI Act's foundational promise.

The OAIC review system remains crippled by delay, meaning Australians can be denied timely access to information—even when they are in the right.

Three years on, Australia's FOI regime is still on the brink of irrelevance. Reform efforts must go further and faster. Accordingly, the Centre for Public Integrity recommends the urgent adoption of our Freedom of Information Reform Blueprint.

About The Centre for Public Integrity

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating the undue influence of money in politics in Australia. Board members of the Centre include the Hon Anthony Whealy KC, the Hon Margaret White AO, the Hon Michael Barker KC, Professor Allan Fels AO, Professor Joo Cheong Tham, Professor Gabrielle Appleby and Geoffrey Watson SC.

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